

AMENDED IN SENATE AUGUST 18, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 941**

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**Introduced by Assembly Member Wood**

February 26, 2015

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An act to amend Section 1206 of the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL’S DIGEST

AB 941, as amended, Wood. Clinics: licensure and regulation: exemption.

Existing law provides for the regulation and licensure of clinics, as defined, by the State Department of Public Health. Under existing law, specified types of clinics are exempted from these licensing provisions, including a clinic that is conducted, maintained, or operated by a federally recognized Indian tribe and is located on land recognized as tribal land by the federal government.

This bill would expand that exemption to also include a *clinic conducted, maintained, or operated by a federally recognized Indian tribe under a contract with the United States pursuant to federal law, without regard to the location of the clinic*. ~~clinic~~; *clinic, except that if the clinic chooses to apply to the department for a state facility license, then the department would retain authority to regulate that clinic as a primary care clinic.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 that is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the state department from adopting regulations that utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) (1) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1603 of Title 25 of the United States Code, that is located on land recognized as tribal land by the federal government.

(2) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1603 of Title 25 of the United States Code, under a contract with the United States pursuant to the Indian Self-Determination and Education Assistance Act (Public Law 93-638), regardless of the location of the ~~clinic~~: *clinic, except that if the clinic chooses to apply to the State Department of Public Health for a state facility license, then the State Department of Public Health will retain authority to regulate that clinic as a primary care clinic as defined by subdivision (a) of Section 1204.*

1 (d) Clinics conducted, operated, or maintained as outpatient  
2 departments of hospitals.

3 (e) Any facility licensed as a health facility under Chapter 2  
4 (commencing with Section 1250).

5 (f) Any freestanding clinical or pathological laboratory licensed  
6 under Chapter 3 (commencing with Section 1200) of Division 2  
7 of the Business and Professions Code.

8 (g) A clinic operated by, or affiliated with, any institution of  
9 learning that teaches a recognized healing art and is approved by  
10 the state board or commission vested with responsibility for  
11 regulation of the practice of that healing art.

12 (h) A clinic that is operated by a primary care community or  
13 free clinic and that is operated on separate premises from the  
14 licensed clinic and is only open for limited services of no more  
15 than 20 hours a week. An intermittent clinic as described in this  
16 subdivision shall, however, meet all other requirements of law,  
17 including administrative regulations and requirements, pertaining  
18 to fire and life safety.

19 (i) The offices of physicians in group practice who provide a  
20 preponderance of their services to members of a comprehensive  
21 group practice prepayment health care service plan subject to  
22 Chapter 2.2 (commencing with Section 1340).

23 (j) Student health centers operated by public institutions of  
24 higher education.

25 (k) Nonprofit speech and hearing centers, as defined in Section  
26 1201.5. Any nonprofit speech and hearing clinic desiring an  
27 exemption under this subdivision shall make application therefor  
28 to the director, who shall grant the exemption to any facility  
29 meeting the criteria of Section 1201.5. Notwithstanding the  
30 licensure exemption contained in this subdivision, a nonprofit  
31 speech and hearing center shall be deemed to be an organized  
32 outpatient clinic for purposes of qualifying for reimbursement as  
33 a rehabilitation center under the Medi-Cal Act (Chapter 7  
34 (commencing with Section 14000) of Part 3 of Division 9 of the  
35 Welfare and Institutions Code).

36 (l) A clinic operated by a nonprofit corporation exempt from  
37 federal income taxation under paragraph (3) of subsection (c) of  
38 Section 501 of the Internal Revenue Code of 1954, as amended,  
39 or a statutory successor thereof, that conducts medical research  
40 and health education and provides health care to its patients through

1 a group of 40 or more physicians and surgeons, who are  
2 independent contractors representing not less than 10  
3 board-certified specialties, and not less than two-thirds of whom  
4 practice on a full-time basis at the clinic.

5 (m) Any clinic, limited to in vivo diagnostic services by  
6 magnetic resonance imaging functions or radiological services  
7 under the direct and immediate supervision of a physician and  
8 surgeon who is licensed to practice in California. This shall not  
9 be construed to permit cardiac catheterization or any treatment  
10 modality in these clinics.

11 (n) A clinic operated by an employer or jointly by two or more  
12 employers for their employees only, or by a group of employees,  
13 or jointly by employees and employers, without profit to the  
14 operators thereof or to any other person, for the prevention and  
15 treatment of accidental injuries to, and the care of the health of,  
16 the employees comprising the group.

17 (o) A community mental health center, as defined in Section  
18 5601.5 of the Welfare and Institutions Code.

19 (p) (1) A clinic operated by a nonprofit corporation exempt  
20 from federal income taxation under paragraph (3) of subsection  
21 (c) of Section 501 of the Internal Revenue Code of 1954, as  
22 amended, or a statutory successor thereof, as an entity organized  
23 and operated exclusively for scientific and charitable purposes and  
24 that satisfied all of the following requirements on or before January  
25 1, 2005:

26 (A) Commenced conducting medical research on or before  
27 January 1, 1982, and continues to conduct medical research.

28 (B) Conducted research in, among other areas, prostatic cancer,  
29 cardiovascular disease, electronic neural prosthetic devices,  
30 biological effects and medical uses of lasers, and human magnetic  
31 resonance imaging and spectroscopy.

32 (C) Sponsored publication of at least 200 medical research  
33 articles in peer-reviewed publications.

34 (D) Received grants and contracts from the National Institutes  
35 of Health.

36 (E) Held and licensed patents on medical technology.

37 (F) Received charitable contributions and bequests totaling at  
38 least five million dollars (\$5,000,000).

39 (G) Provides health care services to patients only:

1 (i) In conjunction with research being conducted on procedures  
2 or applications not approved or only partially approved for payment  
3 (I) under the Medicare program pursuant to Section 1359y(a)(1)(A)  
4 of Title 42 of the United States Code, or (II) by a health care service  
5 plan registered under Chapter 2.2 (commencing with Section 1340),  
6 or a disability insurer regulated under Chapter 1 (commencing  
7 with Section 10110) of Part 2 of Division 2 of the Insurance Code;  
8 provided that services may be provided by the clinic for an  
9 additional period of up to three years following the approvals, but  
10 only to the extent necessary to maintain clinical expertise in the  
11 procedure or application for purposes of actively providing training  
12 in the procedure or application for physicians and surgeons  
13 unrelated to the clinic.

14 (ii) Through physicians and surgeons who, in the aggregate,  
15 devote no more than 30 percent of their professional time for the  
16 entity operating the clinic, on an annual basis, to direct patient care  
17 activities for which charges for professional services are paid.

18 (H) Makes available to the public the general results of its  
19 research activities on at least an annual basis, subject to good faith  
20 protection of proprietary rights in its intellectual property.

21 (I) Is a freestanding clinic, whose operations under this  
22 subdivision are not conducted in conjunction with any affiliated  
23 or associated health clinic or facility defined under this division,  
24 except a clinic exempt from licensure under subdivision (m). For  
25 purposes of this subparagraph, a freestanding clinic is defined as  
26 “affiliated” only if it directly, or indirectly through one or more  
27 intermediaries, controls, or is controlled by, or is under common  
28 control with, a clinic or health facility defined under this division,  
29 except a clinic exempt from licensure under subdivision (m). For  
30 purposes of this subparagraph, a freestanding clinic is defined as  
31 “associated” only if more than 20 percent of the directors or trustees  
32 of the clinic are also the directors or trustees of any individual  
33 clinic or health facility defined under this division, except a clinic  
34 exempt from licensure under subdivision (m). Any activity by a  
35 clinic under this subdivision in connection with an affiliated or  
36 associated entity shall fully comply with the requirements of this  
37 subdivision. This subparagraph shall not apply to agreements  
38 between a clinic and any entity for purposes of coordinating  
39 medical research.

1 (2) By January 1, 2007, and every five years thereafter, the  
2 Legislature shall receive a report from each clinic meeting the  
3 criteria of this subdivision and any other interested party  
4 concerning the operation of the clinic's activities. The report shall  
5 include, but not be limited to, an evaluation of how the clinic  
6 impacted competition in the relevant health care market, and a  
7 detailed description of the clinic's research results and the level  
8 of acceptance by the payer community of the procedures performed  
9 at the clinic. The report shall also include a description of  
10 procedures performed both in clinics governed by this subdivision  
11 and those performed in other settings. The cost of preparing the  
12 reports shall be borne by the clinics that are required to submit  
13 them to the Legislature pursuant to this paragraph.

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